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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,036	08/05/2005	Philippe Deprez	261604US2XPCT	5415
22850 7590 02/23/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER BURCH, MELODY M				
ART UNIT 3657		PAPER NUMBER		
NOTIFICATION DATE 02/23/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

## Application No.

10/518,036

## Applicant(s)

DEPREZ ET AL.

## Examiner

Melody M. Burch

## Art Unit

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12/3/08 and 12/14/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 48-94 is/are pending in the application.
- 4a) Of the above claim(s) 70-94 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 48-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 48-94 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/088)  
Paper No(s)/Mail Date 12/14/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group I in the reply filed on 7/10/08 is acknowledged.
2. Claims 70-94 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/10/08.

***Specification***

3. The disclosure is objected to because of the following informalities: the patent application lacks the proper heading such as "Summary of Invention", "Brief Description of Drawings", etc.

Appropriate correction is required.

***Claim Objections***

4. Claims 48-69 are objected to because of the following informalities: "break" in line 2 of claim 48 should be changed to -brake--, the term "notably" first recited in but not limited to line 4 of claim 54 should be deleted, the phrase "a prior determining a range" in line 6 should be reworded for grammatical purposes, the phrase "the test" first recited in but not limited to line 12 from the bottom of claim 58 lacks proper antecedent basis, the phrase "the high speed thermal engine" in line 2 of claim 64 lacks proper antecedent basis in the claim. The remaining claims are objected to due to their dependency from claim 48. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 48-69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 48. The phrase "the torque transmitted" in line 8 is indefinite. It is unclear to the Examiner whether the torque transmitted recited in line 8 intends to refer to the torque really transmitted previously recited.

Re: claims 50, 51, 53, 56, 57, and 58. The phrase "a transmitted torque value" in lines 2-3 of claim 50 is indefinite. It is unclear whether the transmitted torque value in claim 50 is intended to be the same or different from that recited in claim 48. A similar issue exists in claim 51 with the recitation of "a transmitted torque value". A similar issue exists in claim 53 with the recitations of "an effective average torque value" and "an engine speed value." A similar issue exists in claim 56 with the recitations of "a transmitted torque" and "a predetermined threshold value." A similar issue exists in claims 57 and 58 with the recitation of "an offset."

Re: claim 52. The phrase "(ETT) according to an equation of the form: ECT=" is indefinite because it reads as if the equation would be of the form ETT= to clarify the determination of the estimation of transmitted torque ETT.

Re: claims 54 and 65. The phrase "preferably equal" in line 2 of claim 54 and the phrase "in particular, without testing" in lines 5-6 of claim 65 are indefinite because they fail to clearly define the metes and bounds of the claims.

The remaining claims are indefinite due to their dependency from claim 48.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 48 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Application 2002/0033642 to Holl.

Holl discloses in paragraphs [0034-0035] a method of assistance in starting a vehicle including a power unit and an automatic parking brake equipped with a mechanism of executing a command to release or deactivate the automatic parking brake, comprising, at least after one starting phase of the power unit: estimating a transmitted torque value that balances the vehicle on a slope; executing in a loop an incremental calculation of an estimation of torque really transmitted at a given moment, while the estimation of the torque really transmitted is insufficient to surpass the estimation of the torque transmitted; then producing a starting or deactivation command of the automatic parking brake, as best understood.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holl in view of US Patent 4561527 to Nakamoto et al.

Holl describes the invention substantially as set forth above, but is silent with regards to the limitation wherein the estimating of a transmitted torque value that balances the vehicle on the slope includes calculating a static model of the vehicle on the slope from a measurement of an angle of inclination delivered by a slope sensor and knowledge of a given value representative of the transmission speed.

Nakamoto et al. teach in figure 2A the use of a method of controlling a vehicle including a parking brake including calculating slope conditions using an angle of inclination from element 31 and knowledge of a given value representative of the transmission speed or knowledge derived from element 30.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the control scheme of Holl to have calculated the slope, as taught by Nakamoto et al., in order to provide a means of knowing the condition of the road to ensure proper brake or power control.

11. Claims 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holl in view of US Patent 4561527 to Nakamoto et al as applied to claim 49 above, and further in view of GB-2342967 (GB'967).

Holl, as modified, is silent with regards to the estimation of the torque value being increased by a given value.

GB'967 teaches on pg. 2 last paragraph and pg. 7 lines 12-16 the use of making necessary adjustments to the torque to ensure drivability upon release of the parking brake based on angle of inclination.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the control scheme of Holl, as modified, to have increased torque based on the angle of inclination, in view of the teachings of GB'967, in order to ensure that the vehicle can move when the brake is released.

12. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holl in view of US Patent 6302823 to Eckert et al.

Holl is silent with regards to the a report such that release of the parking brake will be refused in case of lifting of the accelerator pedal.

Eckert et al. teach in col. 2 lines 22-26 the use of the release of a parking brake being cancelled in the case of lifting of the accelerator pedal.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the control scheme of Holl to have included a release of a parking brake being cancelled in the case of lifting of the accelerator pedal,

as taught by Eckert et al., in order to provide a means of maintaining brake when necessary to improve vehicle safety.

13. Claims 60, 62, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holl in view of GB'967.

Re: claims 60 and 62. Holl is silent with regards to detecting a release demand when the power unit is not engaged.

GB'967 teaches in figure 1 the limitation of detecting a release demand using element 28 from other inputs such as element 30 or 34 while the power unit is not engaged as determined from 32.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the control scheme of Holl to have included a step of detecting a release demand when the power unit is not engaged, in view of the teachings of GB'967, in order to provide a means of being able to determine when it is desired to deactivate the parking brake under various vehicle operating conditions.

Re: claim 68. GB'967 teaches on pg. 7 preventing particularly abrupt release of the brake depending on the pitch of the vehicle due to its positioning on a gradient.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the control scheme of Holl to have included preventing the release or particularly the abrupt release of the parking brake depending on the pitch of the vehicle, in view of the teachings of GB'967, in order to ensure a smooth transition from brakes to power to improve driver comfort and vehicle safety.



***Allowable Subject Matter***

14. Claims 52-58, 61, 63-67, and 69 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6019436 teaches the use of adjustable gradients with corresponding changes in brake pressure and 6439675 teaches the use of hill holder functions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb  
February 17, 2009

/Melody M. Burch/  
Primary Examiner, Art Unit 3657